



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region8

AUG 1 - 2017

Ref: 8ENF-AT

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

General Manager
Kemps LLC
200 20th Street N
Fargo, North Dakota 58102

Re: Notice of Noncompliance (NON) - Clean Air Act (CAA) section 112(r)(7)

Dear General Manager:

On December 15, 2016, the U.S. Environmental Protection Agency inspected the Kemps LLC (KL) facility to evaluate compliance with CAA section 112(r)(7) and with the regulations of the Risk Management Program (RMP).

The inspection revealed (4) compliance deficiencies with the facility's implementation of CAA section 112(r)(7). The inspection also revealed one Item-of-Note.

Based on the facts and circumstances surrounding the noncompliance at this facility, the EPA is exercising its discretion and is not taking a penalty action for failure to comply with CAA section 112(r)(7). Instead, this office is transmitting this NON to give KL an opportunity to resolve the deficiencies in a timely manner. **This office is authorized to issue the NON on a one-time basis only. Non-compliance identified subsequent to the NON being issued will result in penalties being assessed against that facility.**

To resolve this matter, **within 30 days of receipt of this letter**, KL must submit a signed Statement of Certification (enclosed). The Statement shall confirm that KL is in compliance with CAA section 112(r)(7), and that the (4) deficiencies identified in the paragraphs below have been corrected. If the Statement of Certification is not submitted in the time specified, KL may be subject to penalties for failure to comply with CAA section 112(r)(7).

Deficiencies - CAA 112(r)(7) – Risk Management Program (RMP)

1. **Requirement found at Subpart D – Prevention Program – Safety Information [40 CFR 68.65(d)(2)]:** The owner or operator shall document that equipment complies with recognized and generally accepted good engineering practices.

- *Industry standards such as IIAR 2-2014 section 6.2.1 states that: The machinery room shall be separated from the remainder of the building by tight fitting construction with a*

one hour fire resistance rating. The main doors leading to the machinery room were constructed of wood which does not have a fire rating of one hour.

- Industry standards such as ILAR 2-2014 section 6.3.4 states that: Access to a machinery room shall be restricted to authorized personnel. Signage on the machinery room doors shall comply with section 6.15. The machinery room doors did not have signs restricting access.
- Industry standards such as ILAR 2-2014 section 6.10.2 states that: Doors shall be equipped with panic hardware. Doors did not have panic hardware.
- Industry standards such as ILAR 2-2014 section 5.15 states that: Emergency shutdown documentation shall be available to emergency responders that include the following: Emergency instructions and phone numbers, refrigerant & quantity, lubricant identity & amount, and field test pressure. KL did not have signage installed.
- Industry standards such as ILAR 2-2014 section 6.7.1 states that: Each machinery room shall have access to a minimum of two eyewash/safety showers. At the time of the inspection KL did not have any showers installed in/near the machinery room.
- Industry standards such as ILAR 2-2014 section 5.14.3 states that: Valves required for emergency shutdown of the system shall be clearly and uniquely identified at the valve itself. The king valve was not clearly marked.
- Industry standards such as ILAR 2-2014 section 5.14.5 states that: Ammonia piping shall be labelled with AMMONIA, the physical state, direction of flow, etc. The PRV header was not labelled.
- Industry standards such as ILAR 2-2014 section 13.4.2 states that: Refrigerant piping shall be protected to prevent damage due to physical impact. KL had piping along the main aisle that was not properly protected.

2. Requirement found at Subpart D – Prevention Program – Management of change [40 CFR 68.75(b)(2)]: Management of change procedures shall assure that the following considerations are addressed prior to any change: The impact of change on safety and health.

- The management of change documents for the current machinery room modification did not consider the lack of safety showers.

3. Requirement found at Subpart D – Prevention Program – Pre-startup Safety Review [40 CFR 68.77(a)]: The owner or operator shall perform a pre-startup safety review for new stationary sources and for modified stationary sources when the modification is significant enough to require a change in the process safety information.

- KL did not perform a PSSR for the current machinery room modification.

4. Requirement found at Subpart D – Prevention Program – Compliance Audits [40 CFR 68.79(a)]: The owner or operator shall certify that they have evaluated compliance with the provisions of this subpart at least every three years to verify that procedures and practices developed under this subpart are adequate and are being followed.

- KL has not completed a compliance audit as of the date of the inspection. They did not complete a compliance audit when they purchased the facility.

Item-of-Note

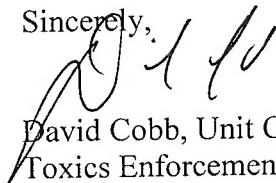
- *Ammonia sensor calibration records show that the accuracy and repeatability of the sensor varies widely between annual checks. The time between checks should be adjusted to establish if the sensor/equipment meets requirements.*

The enclosed Statement of Certification shall be signed and mailed to the address below within 30 days receipt of this letter:

Jeff Meyer, P.E.
US EPA, Region VIII (8ENF-AT)
1595 Wynkoop Street
Denver, Colorado 80202

If you have questions related to this correspondence and/or the inspection findings, or need any clarification regarding compliance issues, please contact Jeff Meyer at 303-312-6319 or meyer.jeff@epa.gov.

Sincerely,



David Cobb, Unit Chief
Toxics Enforcement Program
Office of Enforcement, Compliance, and
Environmental Justice

STATEMENT OF CERTIFICATION

Kemps LLC

I certify that I am authorized to respond to this Notice of Noncompliance (NON) and, on behalf of Kemp LLC (KL), I certify under penalty of perjury that KL is in compliance with Section 112(r)(7) of the CAA and that the deficiencies listed in this NON have been corrected. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(Name)

(Signature)

(Title)

(Date)